

March 8, 2022

Re: CT HB 05271. An Act Concerning the provision of outdoor food & beverage services and outdoor displaying of goods.

To Whom it May Concern:

The Ridgefield Commission for Accessibility discussed this bill at its regularly scheduled meeting last night. Of note, none of the commissioners objected to the temporary extensions of the outdoor provisions provided by this bill, but have expressed concerns for the observable loss of accessibility certain establishments have caused by their occupation of outside spaces. The commission believes in many instances such expansions have resulted in violations, perhaps unintentional, of the Americans with Disabilities Act.

This Act is complaint-based, enforced by the Department of Justice. But, in the experience of this commission, persons with disabilities are reluctant to make such complaints and choose not to participate in what would otherwise be a pleasurable outdoor activity. It is for these individuals and their families this commission endeavors to advocate.

A reading of the bill covers these points very specifically. It shows at the state level there is a sensitivity and awareness of the requirements as specified in the ADA. The problem exists at the local level, where both the municipality and the establishments apply the provisions of this bill. It is not a question of the law not being followed or any intentional neglect, but most probably a misunderstanding of what to do once the provisions of the law are implemented.

We believe that most of the businesses are following the intent and spirit of the law, but do not assume their understanding of the ADA as a civil rights law is evident. The municipalities may be reviewing the sketches of the outdoor expansions as required by the bill, but something seems to be lost in the way those expansions reduce and eliminate accessibility. Observations we have discussed included blocked sidewalks, curb cuts, diversion of walkways into streets, and conversion of handicapped parking spaces to commercial spaces among other issues.

The problem may be one of who is responsible for oversight and enforcement of the rules pertaining to accessibility and access required by the ADA and as specified in the language of this bill. We know that the ADA is enforceable by the DOJ, but without a specific complaint that is unlikely to happen.

Towns might mistakenly conclude they do not have the responsibility or authority to intervene.

The answer is they do have such authority and can use it effectively. The first and most effective way of insuring accessibility is educating applicants to the civil rights requirements of the ADA, and explain this is not just a zoning or building code. We believe upon receiving such information, establishments would be very receptive and understanding.

The second way to resolve the issue is the matter of oversight and enforcement. Applicants should be made aware the provisions of this bill are privileges, just as are drivers licenses and require cooperation on their part. We submit that accessibility is also a safety and health issue for all citizens, which means the authority to enforce compliance the provisions of the bill already exists in local zoning, fire, police, and parking authorities. Questions such as whether expansions impede pedestrian traffic, emergency vehicle traffic, etc. brought us to the conclusion the local towns do have the authority for oversight and enforcement and the implied authority to revoke the privilege of outdoor expansions not in compliance.

This commission requests for this bill to contain language to alert municipalities to their obligation to educate businesses, and provide the oversight and enforcement that will make this a workable and enjoyable provision of the law for everyone.

Thank you for your consideration.

Sincerely,

Don Ciota, Chairman

Ridgefield Commission for Accessibility

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